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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,618	02/15/2002	Alexander J. Feigl	AFEI:002US 10006443	2880
7590 01/08/2004			EXAMINER	
Mark T. Garrett			PANTUCK, BRADFORD C	
Fulbright & Jav				
600 Congress Avenue, Suite 2400			ART UNIT	PAPER NUMBER
Austin, TX 7	8701		3731	1
			DATE MAILED: 01/08/2004	, 4

Please find below and/or attached an Office communication concerning this application or proceeding.

		I Aug lia and (a)				
	Application No.	Applicant(s)				
	10/077,618	FEIGL, ALEXANDER J.				
Office Action Summary	Examiner	Art Unit				
	Bradford C Pantuck	3731				
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the	correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).  Status	36(a). In no event, however, may a reply be t y within the statutory minimum of thirty (30) da vill apply and will expire SIX (6) MONTHS fror , cause the application to become ABANDON	imely filed  ys will be considered timely.  the mailing date of this communication.  ED (35 U.S.C. § 133).				
1) Responsive to communication(s) filed on Octo	<u>ber 3<sup>rd</sup>, 2002</u> .					
2a) ☐ This action is <b>FINAL</b> . 2b) ☐ This	action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) <u>1-63</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.	5) Claim(s) is/are allowed.					
6) Claim(s) is/are rejected.	∂) Claim(s) is/are rejected.					
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-63</u> are subject to restriction and/or 6	election requirement.	· •				
Application Papers						
9)☐ The specification is objected to by the Examine						
10) The drawing(s) filed on is/are: a) acce	epted or b) $\square$ objected to by the	Examiner.				
Applicant may not request that any objection to the	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Ex	caminer. Note the attached Offic	e Action or form PTO-152.				
Priority under 35 U.S.C. §§ 119 and 120						
12) ☐ Acknowledgment is made of a claim for foreigr a) ☐ All b) ☐ Some * c) ☐ None of:	n priority under 35 U.S.C. § 119(	(a)-(d) or (f).				
1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority application from the International Bureau  * See the attached detailed Office action for a list 13) Acknowledgment is made of a claim for domesti since a specific reference was included in the firs 37 CFR 1.78.  a) The translation of the foreign language pro 14) Acknowledgment is made of a claim for domesti	s have been received in Applica rity documents have been received (PCT Rule 17.2(a)). of the certified copies not received priority under 35 U.S.C. § 119 st sentence of the specification of the certified copies not received by the sentence of the specification of the specification of the priority under 35 U.S.C. §§ 12	ved in this National Stage ved. (e) (to a provisional application) or in an Application Data Sheet. eceived. 0 and/or 121 since a specific				
reference was included in the first sentence of th	ne specification or in an Applicat	ion Data Sheet. 37 CFR 1.78.				
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summar	y (PTO-413) Paper No(s)				
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	Patent Application (PTO-152)				

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**DETAILED ACTION** 

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-52, drawn to a medical device, classified in class 606, subclass 148.

Claims 53-63, drawn to a method of needle placement, classified in class 606, II.

subclass 148.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions

are distinct if it can be shown that either: (1) the process as claimed can be practiced by another

materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice

another and materially different process. (MPEP § 806.05(e)). In this case the process claimed

can be practiced by another materially different apparatus. For example, if one attached a needle

to a suture and pulled the needle in one direction across a pipe, the suture could go in the other

direction, as shown in Attachment #1.

Because these inventions are distinct for the reasons given above and the search required

for Group II is not required for Group I, restriction for examination purposes as indicated is

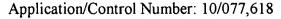
proper.

This application contains claims directed to the following patentably distinct species of

the claimed invention:

Group I has the following species:

Specie 1: Figures 1-6 and 8



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Specie 2: Figures 7A-7D

Specie 1 has the following subspecies:

<sup>3</sup> Subspecie A: Figures 1, 3A, 3B [arcuate guide channel(s), with two openings]

Subspecie B: Figure 2A

Subspecie C: Figure 2B

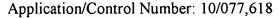
Subspecie B: Figures 4A-4C [curved lumen 40]

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, and must choose one of the Subspecies, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 31 is generic for all of Group I, and claims 1-19 are generic for Subspecies A and B.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a *listing of all claims readable* thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to



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be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Mark T. Garrett on December 30, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

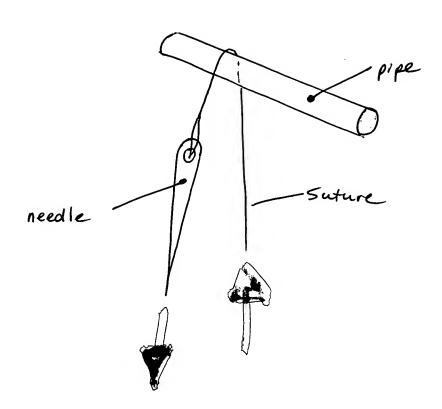
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradford C Pantuck whose telephone number is (703) 305-8621. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

December 30, 2003

MICHAEL J. MILANO SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700



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